

25X1

SECRET

25X1

14 December 1976

MEMORANDUM FOR: Deputy Director for Central Intelligence

25X1A

FROM : [REDACTED]
Chairman, COMIREX

THROUGH : *[Signature]* Deputy to the DCI for the Intelligence Community

SUBJECT : Current Guidelines on Photography of US

1. This memorandum summarizes the extant guidelines being used to assure that photography of the United States from the classified systems is properly authorized and used in relation to the provisions of Section 5 of EO 11905. It follows up the briefing you received on

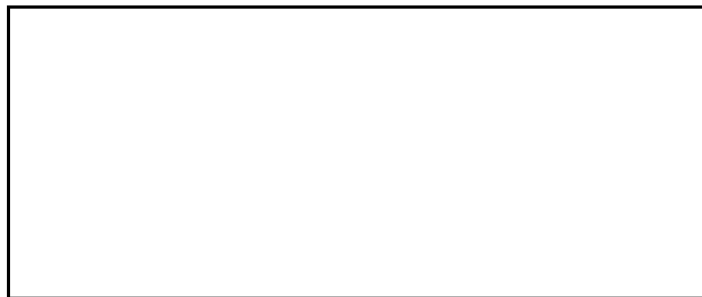
[REDACTED] 25X1
You asked about the propriety of this US photography in relation to EO 11905. I believe that photography from these engineering operations should be considered in the same context and governed by the same procedures established for other photography of the US.

2. The most current authorization to acquire photography of the United States for civil applications is by Presidential direction issued in October 1975, implemented in January 1976. The principal 1975-1976 actions were:

a. In June 1975 the Rockefeller Commission reported it could "...find no impropriety in permitting civilian use of aerial photography systems. The economy of operating a single aerial photography program dictates the use of these photographs 25X1

NRO review(s) completed.

NSC review(s) completed.



Copy I

5X1

25X1

WARNING NOTICE
SENSITIVE INTELLIGENCE SOURCES
AND METHODS INVOLVED

SECRET

for appropriate civilian purposes." The Commission review also included engineering photography. The Commission recommended that a civilian agency committee be re-established to oversee civilian uses to avoid any concerns over improper domestic use (Tab A).

b. A 3 October 1975 memorandum (Tab B) signed by the Assistant to the President for National Security Affairs, Director of Management and Budget, and the DCI, implemented President Ford's directive to establish such a civil agency committee. The first meeting of the Committee for Civil Applications of Classified Overhead Photography of the United States (CAC), chaired by the Department of the Interior, was held in January 1976.

c. After interagency staffing and review, including consultation with the OGC in relation to EO 11905, the CAC approved in November 1976 a policy statement on "Proper Use of Classified Imagery and Derived Information by Civil Agencies" (Tab C) which is used with all requests for information, materials or imagery derived from classified overhead imagery systems. This statement consolidated into a common coordinated document the policies and procedures which were being used in the various agencies.

3. The policy statement promulgated by the CAC includes the following:

"Proper use is defined as the utilization of imagery and information derived from classified overhead imagery systems that is in support of Congressionally approved programs of the user agency, and that is not in violation of applicable laws, including the statutory authority of the user agency, nor inconsistent with the Constitutional and other legal rights of United States persons."

User agency officials must submit a signed statement certifying that the intended use is consistent with the foregoing with each request for information, materials or imagery derived from classified overhead imagery systems.

NRO review(s) completed.

25X1

SECRET

25X1

4. At the present time, and unless there is further legal clarification to the contrary, both the Chairman, COMIREX, as the DCI's representative, and the Civil Applications Committee have taken the position that no requirements for collection of photography of the United States will be accepted which have as their purpose direct support of a law enforcement action or function.

5. In attempting to implement Section 5 of EO 11905, the NRO has established the following policies relative to its engineering tests using imagery of US areas:

a. Each such test requirement must be reviewed and personally approved by the respective NRO Program Director.

b. All domestic photography collected for such test purposes will be destroyed when the photography has satisfied the test objectives.

[REDACTED]

25X1A

6. I believe that the destruction of imagery of the US obtained during research and development or system engineering test activities, and the criteria for selecting engineering aiming points are more restrictive than required or intended by EO 11905. In many instances, for example, photography obtained during system engineering tests is useful for authorized civilian applications and past guidance to the NRO has stated that, to the degree feasible, system engineering tests should be conducted in a way which coincides with civilian requirements. The objective has been efficiency and economy in the use of the photographic assets.

7. In considering the implications of Executive Order 11905 with reference to classified satellite imagery, it is necessary to focus on the inherent characteristics of the imagery. Unlike other technical means, such as electronic surveillance and communications intercepts,

[REDACTED]

25X1

25X1
25X1

SECRET

25X1

Approved For Release 2006/03/17 : CIA-RDP79M00467A002400090001-6

SECRET



25X1D

8. The contents of the photographic data base from the classified systems are no different from the extensive photographic data bases containing unclassified materials which exist throughout the country. Much of the United States has been photographed many times over. In earlier years this was done with commercial survey aircraft.

25X1D

The only reason these materials are classified is that they embody the classified technology of the intelligence systems.

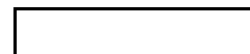
9. The NRO guidelines and other aspects of this subject have been under review with OGC since late June to determine whether there is need for further legal clarification.



25X1A

Attachments
As stated

25X1



25X

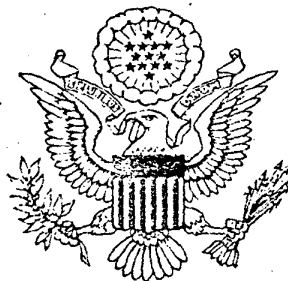
SECRET

ATTACHMENT A

TAB
A

June 1975

Report to the President
by the
COMMISSION ON
CIA ACTIVITIES WITHIN
THE UNITED STATES



tained over the use of such documents; recent guidelines established by the Deputy Director for Operations appear adequate to prevent abuse in the future.

2. Overhead Photography of the United States

In 1966, the Special Assistant to the President for Science and Technology commenced a formal study on the use of aerial intelligence photography for civilian purposes. This study was commenced with the approval of the Director of Central Intelligence and in cooperation with the Departments of Agriculture, Commerce, Interior, the Agency for International Development and the National Aeronautics and Space Administration.

In 1967 the study resulted in the establishment of a steering committee in the office of the President's Science Adviser, with membership from the United States Geological survey, the Department of Commerce, the Department of Agriculture, the National Aeronautics and Space Administration and other interested civilian agencies. This committee was designed to act as an interface, by which the intelligence community could assure the public that it was not involved in selecting or determining the end use of its aerial photographs of domestic areas.

The Director of Central Intelligence agreed to provide photography to civilian agencies pursuant to the steering committee's request, provided there would be no interference with intelligence needs nor any significant cost increase.³

The photographs of the United States actually turned over to civilian agencies were taken primarily for military mapping purposes. Since that time, aerial photography systems have been used for such diverse civilian projects as mapping, assessing natural disasters such as hurricane and tornado damage and the Santa Barbara, California, oil spill, conducting route surveys for the Alaska pipeline, conducting national forest inventories, determining the extent of snow cover in the Sierras to facilitate the forecast of runoff and detecting crop blight in the Plains States. Limited equipment testing and performance evaluation is also conducted, using photographs taken of areas within the United States.

In 1973, the Office of the President's Science Adviser was abolished, and the special steering committee controlling the civilian use of aerial photography ceased to exist. Efforts are underway to establish a new committee to undertake this activity.⁴ In the meantime, the Director of Central Intelligence has entered into agreements with several

³ While the Agency engineered and developed most of the operational aerial photography systems, it is no longer responsible for the operational aspects of those systems.

⁴ The President has recently announced his intention to reestablish the Office of the President's Science Adviser.

federal agencies, including the Environmental Protection Agency, which permits them access to classified overhead photography.

Conclusions

The Commission can find no impropriety in permitting civilian use of aerial photography systems.⁵ The economy of operating a single aerial photography program dictates the use of these photographs for appropriate civilian purposes.

Recommendation (29)

A civilian agency committee should be reestablished to oversee the civilian uses of aerial intelligence photography in order to avoid any concerns over the improper domestic use of a CIA-developed system.

⁵ It is arguable that at least one present use of aerial photography is law enforcement in nature and outside the scope of proper CIA activity. This use involves photography with infrared sensors to detect areas of high concentrations of industrial pollutants in the air and in various bodies of water. Data obtained from this activity could conceivably be used as the basis for a criminal action brought under environmental legislation. The Commission believes, however, that the legislators, when they prohibited the CIA from engaging in law enforcement activities in their 1947 enactment of the National Security Act, could not have contemplated the systems presently in use. It should be noted that the CIA did turn down a request from the Alcohol and Tobacco Tax Unit of the Treasury Department to help locate moonshine stills in the North Carolina mountains using infrared photography, on the ground that such activity was law enforcement in nature.

WASHINGTON

ATTACHMENT B

SECRET/XGDS

October 3, 1975

MEMORANDUM FOR

The Secretary of Defense
The Secretary of Interior
The Secretary of Agriculture
The Secretary of Commerce
The Administrator, National Aeronautics
and Space Administration
The Administrator, Environmental Protection
Agency
The Chief of Engineers, United States Army

SUBJECT: Establishment of the Committee for Civil Applications
of Classified Overhead Photography of the United States

The President has noted that the Commission on CIA Activities Within the United States in discussing classified overhead photography of the United States concluded that it can find no impropriety in permitting continued civilian use of such photography and that economy dictates the use of the photographs for appropriate civilian purposes. Accordingly, the President has directed the establishment of a civilian agency committee to oversee civilian uses of classified overhead photography taken over the United States.

To implement the President's decision, the following actions are to be taken:

1. The Secretary of Interior will form a Committee for Civil Applications of Classified Overhead Photography of the United States which will:
 - receive, evaluate, consolidate, standardize, establish priorities and transmit to the Director of Central Intelligence (DCI) all requests for such photography from domestic civilian agencies;
 - facilitate civilian agencies' use of classified systems and coordinate the incorporation of photography, derived data, and technology in performance of domestic civilian functions;

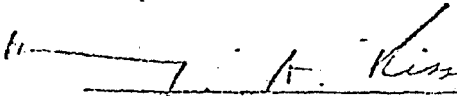
SECRET/XGDSBY AUTH -Henry A. KissingerTAB
B


Approved For Release 2006/03/17 : CIA-RDP79M00467A002400090001-6

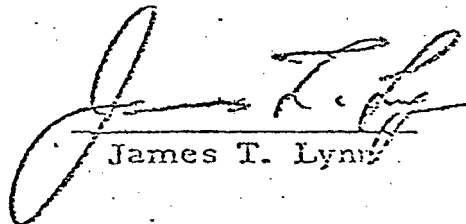
- supply information to civilian agencies so that they may knowledgeably formulate requests and reach compromises between requests and capabilities;
- act as the interface between civilian agencies and intelligence collectors, recognizing that the Director of Central Intelligence will not be involved in judgments concerning civil agency needs or priorities and that collection for this purpose will remain incidental to foreign intelligence collection;
- oversee civilian agency uses of classified photography in a manner designed to avoid any concerns that domestic photographic coverage is being used improperly.

In performing all of the above activities, the Committee will be subject to guidelines established by the President.

2. The committee will be chaired by the representative of the Department of Interior and will consist of representatives of the Departments of Agriculture and Commerce, the National Aeronautics and Space Administration, the Corps of Engineers and the Environmental Protection Agency. Membership may be expanded at the discretion of the Committee.
3. The Director of Central Intelligence will designate a representative to serve ex officio on the Committee for the purpose of liaison with the intelligence community, to assist in obtaining domestic photographic coverage, to address issues concerned with the use of classified products, and to facilitate the acquisition of security clearances for users. Since civil usage of data is enhanced if unclassified, the DCI's representative will be an intermediary on questions concerning release of classified information from security controls, as appropriate.


Henry A. Kissinger


William E. Colby


James T. Lynne

SECRET/XGDS

SECRET

Approved For Release 2006/03/17 : CIA-RDP79M00467A002400090001-6

ATTACHMENT C

POLICY STATEMENT

PROPER USE OF CLASSIFIED IMAGERY AND DERIVED INFORMATION BY CIVIL AGENCIES

One of the responsibilities of the Committee for Civil Applications of Classified Overhead Photography of the United States is as follows:

"oversee civilian agency uses of classified photography in a manner designed to avoid any concerns that domestic photographic coverage is being used improperly."

Proper use is defined as the utilization of imagery and information derived from classified overhead imagery systems that is in support of Congressionally approved programs of the user agency, and that is not in violation of applicable laws, including the statutory authority of the user agency, nor inconsistent with the Constitutional and other legal rights of United States persons.

Proper use also requires compliance with all security regulations and guidelines issued by the Director of Central Intelligence and other restrictions that are applicable to information, materials and imagery derived from classified overhead imagery systems.

User agencies will submit the following statement with each request for information, materials or imagery derived from classified overhead imagery systems certifying that the intended use will be in accordance with the above.

I certify that the intended use of the requested information, materials or imagery derived from classified overhead systems is in support of Congressionally approved programs of the user agency, and not in violation of applicable laws, including the statutory authority of the user agency, nor inconsistent with the Constitutional and other legal rights of United States persons. Applicable security regulations and guidelines and other restrictions will be followed.

Responsible Official

Date

Agency



TAB
C

ROUTING SLIP

TO	ACTION	INFO	DATE	INITIAL
3 DDCI		X		dh
1		X	rrh	12-17-76
2		X		

SUSPENSE _____
Date

Remarks: Q - George - for Review

Mr. Knoche:

I discussed this w/ the responsible OGC attorney. He assured me that OGC would take steps to seek the Attorney General's resolution of the differing legal positions (CIA + NRO) in the next two weeks.

1/6/77
Date

SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM			
UNCLASSIFIED		CONFIDENTIAL	
		SECRET	
OFFICIAL ROUTING SLIP			
TO	NAME AND ADDRESS	DATE	INITIALS
1	EO/ICS	15 Dec	RJK
2	AD/DCI/IC	15 DEC	5/67
3	DDCI		
4			
5			
6			
ACTION		DIRECT REPLY	PREPARE REPLY
APPROVAL		DISPATCH	RECOMMENDATION
COMMENT		FILE	RETURN
CONCURRENCE		INFORMATION	SIGNATURE
Remarks: <p>Ref para 9 - there has been a continuing dialogue between OGC & Com. REX. There is no detailed guidance on the use of unagency. OGC believes that the NRO is interpreting the E.O. much too strictly and incorrectly. RK.</p>			
FOLD HERE TO RETURN TO SENDER			
FROM: NAME, ADDRESS AND PHONE NO.			DATE
Office of the Chairman, COMPLEX			15/12/76
UNCLASSIFIED		CONFIDENTIAL	SECRET